

1-1 By: Turner (Senate Sponsor - Whitmire) H.B. No. 312  
1-2 (In the Senate - Received from the House May 1, 2007;  
1-3 May 2, 2007, read first time and referred to Committee on Criminal  
1-4 Justice; May 10, 2007, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 10, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the burden of proof in a community supervision  
1-9 revocation hearing regarding a defendant's ability to make certain  
1-10 court-ordered payments.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 21(c), Article 42.12, Code of Criminal  
1-13 Procedure, is amended to read as follows:

1-14 (c) In a community supervision revocation hearing at which  
1-15 it is alleged only that the defendant violated the conditions of  
1-16 community supervision by failing to pay compensation paid to  
1-17 appointed counsel, community supervision fees, or court costs,  
1-18 [restitution, or reparations,] the state must prove by a  
1-19 preponderance of the evidence that [inability of] the defendant was  
1-20 able to pay and did not pay as ordered by the judge [is an  
1-21 affirmative defense to revocation, which the defendant must prove  
1-22 by a preponderance of evidence]. The court may order a community  
1-23 supervision and corrections department to obtain information  
1-24 pertaining to the factors listed under Article 42.037(h) of this  
1-25 code and include that information in the report required under  
1-26 Section 9(a) of this article or a separate report, as the court  
1-27 directs.

1-28 SECTION 2. The change in law made by this Act applies only  
1-29 to a community supervision revocation hearing held on or after the  
1-30 effective date of this Act.

1-31 SECTION 3. This Act takes effect September 1, 2007.

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